

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

BRETT FOUNTAIN,

Plaintiff,

v.

CLIFFORD WAYNE THOMAS, et al.,

Defendants.

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Case No. 6:22-cv-431-JDK-KNM

ORDER DENYING RELIEF FROM FINAL JUDGMENT

Plaintiff Brett Fountain filed this pro se civil rights lawsuit against Defendants Clifford Thomer, Angela Albers, and the Wood County District Attorney's Office. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On February 16, 2023, the Court dismissed Plaintiff's claims with prejudice. Docket No. 35. Plaintiff appealed that dismissal, and the Fifth Circuit affirmed. See Docket No. 42.

Now before the Court is Plaintiff's motion for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). Docket No. 38. On January 26, 2024, Judge Mitchell issued a Report and Recommendation recommending that the Court deny Plaintiff's Rule 60 motion. Docket No. 43. Plaintiff has not filed objections.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law.

Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 43) as the findings of this Court and **DENIES** Plaintiff's Rule 60 motion (Docket No. 38).

So **ORDERED** and **SIGNED** this **26th** day of **February, 2024**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE